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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY IN LOS ANGELES,
CALIFORNIA,

Defendant.

No. 2:22-cv-02902-JLS-PDx

GOVERNMENT'S OPPOSITION TO
CLAIMANTS' MOTION TO LIFT THE STAY

**[REDACTED Version of Document
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Date: July 28, 2023
Time: 10:30 a.m.
Courtroom: 8A, the Honorable
Josephine L. Staton

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1 **I. INTRODUCTION**

2 Claimants' Motion to Lift or Modify the Stay (DE 59) (the
3 "Motion") is a transparent attempt to relitigate the stay order that
4 this Court entered only six months earlier. The Court stayed this
5 case "pending resolution of the related criminal investigation and
6 case," DE 52 at 7, and neither the United States' criminal
7 investigation nor the Armenian criminal prosecutions have been
8 resolved. Indeed, Claimants moved to lift the stay just two weeks
9 after the government's **first** status report detailing its ongoing
10 international investigation. At the same time, Claimants have taken
11 steps to block that investigation by filing legal pleadings in a
12 foreign jurisdiction and have rejected a significant offer on the Los
13 Angeles mansion. Claimants should not be permitted to slow down the
14 government's investigation, while simultaneously complaining of a
15 slow pace here.

16 The Court should deny Claimants' effort to short-circuit the
17 government's criminal investigation and to obtain back-door discovery
18 into pending Armenian criminal prosecutions, just as the Court did
19 before (see DE 52). The Motion should be denied.

20 **II. FACTUAL AND PROCEDURAL BACKGROUND**

21 **A. Underlying Facts.** As set forth in the Verified Complaint for
22 Forfeiture In Rem, DE 1, in 2011, Sedrak Arustamyan ("Arustamyan"), an
23 Armenian businessman wired approximately \$14,400,000 to the United
24 States to purchase the defendant luxury residence in Holmby Hills (the
25 "Veto Estate") on behalf of Guren and Artyom.¹ Guren's and Artyom's
26 father, Gagik ("Gagik"), was in 2011 (and remained until 2016) the

27
28 ¹ Later, Guren and Artyom transferred ownership of the Veto
Estate to what is now WRH, Inc., a corporation that they wholly own.

1 highest-ranking Armenian public official in charge of tax collection.
2 After the purchase, Gurgen and Artyom rebuilt the property, with suites
3 designated for members of their family and the largest suite intended
4 for Gagik and his wife. Instead (though Claimants contest these
5 allegations), the loans were shams, were not, and were not ever intended
6 to be, repaid, and were instead for covers for bribes to purchase
7 illegal tax treatment in favor of business affiliated with Arustamyan.
8 See also DE 45 at 3-7 (Plaintiff's Opposition to the Motion for
9 Judgement on the Pleadings); see also DE 40 (Newhouse In Camera
10 Declaration); DE 64 (In Camera Supplemental Status Report filed
11 contemporaneously herewith).

12
13 In April 2020, Armenian prosecutors charged Claimants Gurgen and
14 Artyom with receiving approximately \$22,400,000 of bribes from
15 Arustamyan on behalf of their father Gagik (in addition to other
16 offenses); Gagik and Arustamyan were also charged in connection with
17 the bribes. The charged bribes included the funds that Arustamyan sent
18 to the United States to purchase the defendant property. Rather than
19 mount a defense to the Armenian charges, Gurgen and Artyom fled the
20 country. The Armenian cases against them remain pending.²

21 No later than 2021, Claimants took steps to sell the Veto Estate.
22 See DE 59-1 at ¶ 6. In April 2022, Claimants listed the property for
23 sale on a Multiple Listing Service. DE 1 at ¶ 54. On May 2, 2022,
24 the government filed the instant civil forfeiture suit. DE 1. The
25 government also immediately proposed an interlocutory sale stipulation
26 to permit the sale that Claimants intended. Claimants agreed to the
27 stipulation, and, on August 3, 2022, the Court approved it. See DE 36
28

² Gurgen remains a fugitive. Though Artyom no longer remains a
fugitive, he was for several years after the charges were filed.

(the "ISS"). Though the government filed a lis pendens on the Veto Estate, the government has not seized or imposed any other restraint on Claimants' use of the property.

B. Marketing Of Veto Estate. The ISS provided both the government and WRH with the right to reject any proposed sale as "below fair market value" and provided that disputes as to fair market value may be submitted to the Court. ISS at ¶ 9. WRH also agreed to "secure and maintain the Property in substantially the same condition as it was on the date of the filing of this action." ISS at ¶ 11.

Under the ISS, the broker that Claimants had already hired would continue to market the property until October 7, 2022. ISS at ¶ 5. If a sale contract had not been signed by that time, Claimants and the government agreed that the United States Marshal Service ("USMS") would market the property with a broker of its choosing. ISS at ¶ 5.

WRH's broker did not obtain a viable offer to purchase the Veto Estate by October 7, 2022.³ After the government agreed--at WRH's request--to extend the time for him to continue marketing the property, the USMS exercised its right under the stipulation to take over marketing of the property on or around November 14, 2022.

³

Claimants filed the present motion on May 3, 2023, in which they charged the government with “lackluster marketing” of the property. DE 59 at 9. [REDACTED]

Subsequent discussions remain ongoing and it remains

4

1 possible that a transaction will be concluded with the consent of all
2 parties.

3 **C. The Court's Entry Of A Stay.** On July 29, 2022, Claimants
4 served on the government requests for production that sought, among
5 other things, (1) all documents or communications (including mutual
6 legal assistance treaty requests) that the government had exchanged
7 with any foreign government or other entity regarding this case,
8 (2) all grand jury subpoena returns, (3) FD-302(s) and other witness
9 statements for all witnesses that the Government had interviewed and
10 (4) all documents that tend to support or refute the allegations in
11 the Complaint. See DE 37-2 (copy of the requests for production).
12

13 On September 23, 2022, the government objected to these requests
14 for production and moved for a stay under 18 U.S.C. § 981(g) and this
15 Court's inherent power. On October 18, 2022, this Court granted the
16 government's motion and entered a stay "pending resolution of the
17 related criminal investigation and case." DE 52 at 7. It ordered the
18 government to file in camera status reports every 180 days until the
19 stay is lifted. DE 52 at 7. The government filed its first status
20 report on April 19, 2023. DE 58. **Two weeks after the first status**
21 **report,** Claimants moved to lift the stay. DE 59.

22 As described in the in camera status report and the in camera
23 supplemental status report filed herewith, both the Armenian criminal
24 prosecutions and the United States criminal investigation remain
25 ongoing. At the same time, Claimants have taken efforts to forestall
26 the investigation. For example, Claimants retained counsel in Austria
27 and filed pleadings objecting to all the United States's efforts to
28

[REDACTED]
[REDACTED]
[REDACTED]

1 collect evidence from that country, and asked that any evidence already
2 collected be destroyed. Smith Decl. ¶ 2.

3 **III. LEGAL STANDARD**

4 Pursuant to the Civil Asset Forfeiture Reform Act ("CAFRA"), a
5 "court shall stay" a civil forfeiture proceeding if it determines "that
6 civil discovery will adversely affect [1] the ability of the Government
7 to conduct a related criminal investigation or [2] the prosecution of
8 a related criminal case." 18 U.S.C. § 981(g)(1). Congress provided
9 for CAFRA stays to remain in place so long as there was an "actual
10 prosecution or investigation in progress" that would be adversely
11 affected by civil discovery. 18 U.S.C. § 981(g)(4); see id. (defining
12 the terms "related criminal case" and "related criminal investigation"
13 to mean "an actual prosecution or investigation in progress at the time
14 at which the request for the stay, or any subsequent motion to lift
15 the stay is made" (emphasis added)); see also United States v. Various
16 Gold, Silver & Coins, No. 3:11-CV-01179-SI, 2012 WL 13055591, at *1
17 (D. Or. July 26, 2012) ("Courts have applied this statute broadly[.]")

18 "The statute requires no particularized showing of prejudice or
19 harm," United States v. \$600,980.00 in U.S. Currency, No.
20 221CV06965RGKMAR, 2022 WL 18397522, at *2 (C.D. Cal. Nov. 15, 2022)
21 ("\$600,980.00 II"), nor is there "any requirement that the Government
22 show good cause," United States v. \$399,000.00 in U.S. Currency, No.
23 221CV06966RGKMAR, 2022 WL 2284931, at *2 (C.D. Cal. Mar. 8, 2022); see
24 DE 52 at 4 (this Court's ruling to the same effect). Instead, "all
25 the Court need determine is whether civil discovery will likely
26 interfere with the criminal investigation." DE 52 at 4 (quoting United
27 States v. \$600,980.00 in U.S. Currency, No. 221CV06965RGKMAR, 2022 WL
28 2284934, at *2 (C.D. Cal. Mar. 8, 2022) ("\$600,980.00 I").

1 **IV. ARGUMENT**

2 This Court previously entered a stay “pending resolution of the
3 related criminal investigation and case,” because “the statute’s plain
4 language mandates that the Government’s request for a stay be granted.”
5 DE 52 at 6-7. There is no reason to revisit that ruling.

6 **A. The Stay Should Remain in Place**

7 As this Court held, “[t]he in camera declaration of FBI Special
8 Agent Mark Newhouse clearly demonstrates that the Government is engaged
9 in an ongoing investigation of criminal conduct related to this action
10 and that civil discovery would likely jeopardize that investigation.”
11 Id. at 6. The in camera status report filed on April 19, 2023, and
12 the supplemental in camera status report filed contemporaneously
13 herewith make clear that that investigation remains “[a]n actual . . .
14 investigation in progress.” 18 U.S.C. § 981(g)(4). And, just as this
15 Court found before, civil discovery would “likely jeopardize that
16 investigation” by “subjecting the Government to broader and earlier
17 discovery than would occur in a criminal proceeding.” DE 52 at 6. See
18 also DE 40 (Newhouse In Camera Declaration further explaining harm to
19 criminal investigation from civil discovery). “In such circumstances,”
20 as this Court found, “the statute’s plain language mandates that the
21 Government’s request for a stay [remain] granted.” DE 52 at 6.

23 Further, the Armenian criminal prosecutions of Claimants Gurgun
24 and Artyom--as well as of their father Gagik and their associate
25 Arustamyan--remain pending. As previously explained, see DE 37 at 10-
26 11, DE 49 at 7-9, those prosecutions are also an independent basis for
27 a stay, either under the statute, see 18 U.S.C. § 981(g) (stay mandatory
28 when civil discovery “will adversely affect . . . the prosecution of a
related criminal case”); United States v. Approximately \$144,001 in

1 U.S. Currency, No. C 09-04182 JSW, 2010 WL 1838660, at *2 (N.D. Cal.
 2 May 3, 2010), or under the Court's inherent power, see Neuchatel Swiss
 3 Gen. Ins. Co. v. Lufthansa Airlines, 925 F.2d 1193, 1195 (9th Cir.
 4 1991). See also United States v. "The Wolf of Wall Street" Motion
 5 Picture, No. CV165362DSFPLAX, 2017 WL 8230168, at *1 (C.D. Cal. Sept.
 6 13, 2017) (staying civil forfeiture case because of "the complex nature
 7 of the alleged crimes and the sensitive political and diplomatic issues
 8 involved").

9
 10 Claimants do not dispute that a criminal investigation is under
 11 way in the United States or that several criminal prosecutions are
 12 under way in Armenia. Nor do Claimants seriously dispute that those
 13 investigations and prosecutions would be "adversely affected" by civil
 14 discovery. 18 U.S.C. § 981(g)(1). At most, they make the bald assertion
 15 that the prosecutions and investigations "cannot be adversely affected"
 16 by civil discovery because there is no wrongdoing to investigate or
 17 prosecute. DE 59 at 10. But nothing in CAFRA makes stays depend on
 18 claimants' assessments of the relative merits of ongoing investigations
 19 or prosecutions, much less requires courts to make advance
 20 determinations about incomplete investigations just to rule on a motion
 21 to stay. Instead, "all the Court need determine is whether civil
 22 discovery will likely interfere with the criminal investigation." DE
 23 52 at 4 (quoting "\$600,980.00 I, 2022 WL 2284934, at *2). As the Court
 24 previously determined, it would.⁶

25
 26
 27
 28
⁶ In any event, as the Newhouse Declaration and the government's
 in camera status reports make clear, Claimants' suppositions about
 the evidence that Armenian and United States authorities have
 collected are untrue.

B. Claimants' Arguments to Lift the Stay Lack Merit

Rather than addressing the statutory standard, Claimants argue that the stay should be lifted because (1) the "investigation period" has been "excessive," DE 59 at 4-7; and (2) they have suffered "severe prejudice" from the stay. Id. 10; see id. at 7-10. These arguments do not address the statutory standard for a stay of a forfeiture proceeding and lack merit even on their own terms.

1. The "Investigation Period" Has Not Been "Excessive"

Claimants argue that the "investigation period," which according to Claimants began in 2019, has been "excessive" and should now end. DE 59 at 4-5. But this civil forfeiture case was filed last year, and stayed only six months before Claimants moved to lift the stay. However long the "investigation period" may have been, the stay has been comparatively short. Indeed, the Court entered a stay "pending resolution of the related criminal investigation and case" and ordered the government to file status reports every 180 days. DE 52 at 7.

Instead, "the presence of related criminal proceedings has long been considered a justification for a lengthy delay in forfeiture proceedings," United States v. Real Property Located at 6415 N. Harrison Ave., 2012 WL 4364076, *5 (E.D. Cal. Sep. 21, 2012), particularly when those proceedings involve inherently time-consuming international financial investigations, see United States v. \$37,564,565.25 et al., No. 1:18-cv-2795 (D.D.C.) (stay remains in place nearly five years after government had seized nearly \$100 million); United States v. £22 million in British pounds, No. 1:15-cv-01018-RJL (D.D.C.) (stay remains in place eight years after government had frozen approximately £22 million); United States v. All Assets Held in Raymond James & Associates, Inc., No. 1:19-cv-00377-WFK (EDNY) (stay in place

1 for three-and-a-half years, which is five years after government seized
 2 approximately \$4.9 million); see also United States v. Approximately
 3 \$1.67 Million in U.S. Currency, Stock & Other Valuable Assets, 513 F.3d
 4 991, 1001 (9th Cir. 2008) ("five-year delay between seizing the funds
 5 . . . and commencing the action" did not violate due process).⁷

6 What is more, many of the supposed "delays" are attributable to
 7 Claimants' own conduct. For example, despite claiming that they are
 8 fully "cooperating" (DE 59 at 6) with the United States investigation,
 9 Claimants have filed pleadings in a foreign jurisdiction opposing the
 10 government's efforts to collect evidence. See Smith Decl. ¶ 2. Having
 11 worked to stall the investigation, Claimants should hardly be heard to
 12 complain that it is not proceeding fast enough. Nor should this Court
 13 allow itself to become a backdoor for intrusive discovery into ongoing
 14 foreign prosecutions, particularly while Gurgun remains a fugitive from
 15 those proceedings. See DE 37-2 at 5 (Claimants seek production of "all
 16 documents the Government has provided to or received from Armenian law
 17 enforcement relating to this matter").

18
 19 **2. The Motion's Claims of "Severe Prejudice" Are**
 20 **Unsupported**

21 Claimants' account of the "severe prejudice," DE 59 at 10, that
 22 the stay has caused them is not a basis to lift the stay and is vastly
 23 overstated, in any event.

24 First, the stay (and the government's civil forfeiture case more
 25 generally) have not deprived defendants of their claimed property
 26 rights for one day. Unlike in the cases that Claimants cite, the
 27

28
⁷ Further, unlike in each of the cited cases, the government has not seized or otherwise deprived Claimants' of use of the defendant property. See infra.

1 government has not seized the defendant property. See \$600,980.00 II,
2 2022 WL 18397522, at *1-*2 (describing due process concerns where
3 property is "seized" and "held without an opportunity to contest the
4 seizure"); United States v. \$177,844.68 in U.S. Currency, No. 2:13-CV-
5 100-JCM-GWF, 2014 WL 4071054, at *9 (D. Nev. Aug. 15, 2014) (concerning
6 funds "seized from the Claimants' bank accounts . . . over two years
7 ago"); DE 59 at 4 (relying on these cases). To the contrary, as this
8 Court previously observed, "Claimants are still able to use and access
9 the [Mansion]." DE 52 6-7 (quotation marks omitted). Further,
10 Claimants "were marketing the property for sale when the Government
11 filed the complaint," and the government agreed to an interlocutory
12 sale stipulation that would permit that marketing to continue. Id. at
13 7.
14

15 Claimants now express dissatisfaction with the ISS and, in
16 particular, their agreement that the government's real estate team
17 would assume control of marketing efforts if their own broker was
18 unable to sell the property by October, 2022. See DE 59 at 9. But
19 Claimants' second thoughts about the agreement they reached in the sale
20 stipulation are no basis to lift the stay. In any event, Claimants'
21 hearsay insinuations and accusations are unfounded: [REDACTED]

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED] None of this is a basis to lift a stay.

3 Claimants' claims of "reputational harm" and harm to "business
4 relationships" are likewise not a basis to lift the stay. DE 59 at 2;
5 see id. at 7-8. Before this case was filed (or stayed), Claimants
6 faced criminal charges regarding the very same transactions in Armenia,
7 the jurisdiction where Claimants' "legitimate business operations" (id.
8 at 2) are located and in which Claimants resided. It is hard to believe
9 that a stay in this case could have harmed their businesses and
10 reputations any more than criminal charges in the jurisdiction in which
11 they principally lived and did business. In any event, Claimants cite
12 no case holding that reputational harm is a basis to lift a stay: if
13 it were, then few cases indeed would be subject to a mandatory stay
14 because all civil forfeiture complaints, of necessity, allege
15 wrongdoing.
16

17 Finally, Claimants' argument that delay will make it "more
18 difficult" to put forth an effective defense, DE 59 at 9, rings hollow.
19 "To the extent that the stay would delay resolution of this case, that
20 is an issue inherent in any stay and does not weigh against [a stay
21 here] here." DE 52 at 7. See "The Wolf of Wall Street" Motion Picture,
22 2017 WL 8230168, at *1 ("The reason for the delay is well-founded and
23 codified as important by Congress"). In any event, the government,
24 which bears the ultimate burden of proof, faces at least an equal
25 measure of risk from fading memories and irretrievable documents.

26 **C. The Court Should Not Modify the Existing Stay**

27 When the Court entered the stay, the Court denied Claimants'
28 request to require the government to file status reports more
frequently than every 180 days. See DE 52 at 7 (court's order requiring

1 status reports every 180 days); DE 44 at 21-22 (Claimants' request that
2 status reports be filed every 60 days); see also DE 49 at 12-13
3 (government's explanation why 180 days is appropriate). Claimants'
4 Motion, filed only days after the government's first status report,
5 now seeks to relitigate that ruling and asks that the Court require
6 "more frequent updates" from the Government. DE 59 at 18. The Court
7 should deny that request. Claimants do not even acknowledge this
8 Court's prior ruling, much less explain why the Court should revisit
9 it.

10 Claimants' other requests to modify the stay are equally
11 unsupported. There is just as little reason to have the parties rebrief
12 Claimants' motion for judgment on the pleadings as there was for the
13 Court to decide it when it was briefed previously. Yet again, Claimants
14 do not even acknowledge this Court's prior decision to stay that motion,
15 see DE 52 at 7 (vacating hearing on that motion), much less explain
16 why the Court should change its mind now. See also 18 U.S.C. §
17 981(g)(1) (providing for a stay of "the civil forfeiture proceeding,"
18 not just of discovery (emphasis added)).⁸

19 Nor should the Court modify the stay to require the Government to
20 provide an "accounting" of all the evidence in its possession,
21 including evidence that "weakens the Government's theory." DE 59 at
22 11. That kind of burdensome disclosure requirement would be completely
23 unprecedented, would go beyond the discovery requirements even in an
24 unstayed case (criminal or civil), and would only divert resources from
25

26
27 ⁸ Among other things, as the government noted before (see DE 49
28 at 12), if Claimants were to proceed with dispositive motions, then
the government would be entitled to pursue discovery on standing,
including seeking complete, non-evasive answers to the government's
already-served special interrogatories. See Fed. R. Civ. P., Suppl.
Rule G(6)(C).

1 the investigation that Claimants claim to want to hasten. Claimants
2 provide no justification to impose such an extraordinary requirement
3 here.

4 **V. CONCLUSION**

5 For foregoing reasons, Claimants' Motion should be denied.

6 Dated: July 7, 2023

Respectfully submitted,

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